

REMARKS/ARGUMENTS

Claims 1-47 are pending in the application.

The Examiner has required a restriction under 35 U.S.C. §121 and §372.

Applicants hereby elect with traverse group I, namely claims 1-38 and 41. Applicants hereby withdraw the non-elected claims 39-40 and 42-27 and reserve the right to file one or more divisional patent applications on these claims. Applicants note that claim 41 was regarded as belong to both Group I and Group II. Should this be an error, clarification is earnestly sought.

The Examiner also states that each invention is additionally and independently directed to the method of use of one of the hundreds of patentably distinct products of unrelated chemical structure and function. The Examiner regards each of the cytochrome C with a different single mutation at a particular position as a single invention. The Examiner states that this is not a species election. In response, Applicants elect, with traverse, group (j) (i.e., cytochrome C with a single mutation at position 72 or DNA encoding it). Claims 7 and 10 relate to non-elected invention and are withdrawn.

With regard to the traverse, Applicants first submit that Group 2, claims 39-47, all depend on the fusion protein of claim 1. Therefore, the claims are not independent. In so far as claim 1 is allowable, claims 39-47 should also be found allowable. Further, claims 39-47 are process claims that depend on product claims. Thus there should be at least the possibility of rejoining claims 39-37 when claim 1 is found allowable. In addition, claims 43, 46 and 47 depend, in part, on claim 38, which belongs to Group I.

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With regard to the traverse, Applicants also submit that the cytochrome C with different mutations are all related as they are all variations of cytochrome C. As such, search and examination of the several cytochrome C mutations as one invention should not provide particular burden on the patent office.

Applicants assert that the claims are in allowable form and earnestly solicit the allowance of claims 1-6, 8-9, 11-38 and 41.

Early and favorable consideration is respectfully requested.

Respectfully submitted,
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